

LAKE COUNTY BOARD of ADJUSTMENT
January 13, 2016
Lake County Courthouse Commissioners Office (Rm 211)
Meeting Minutes

MEMBERS PRESENT: Sue Lavery, Steve Rosso, Don Patterson, Frank Mutch,

STAFF PRESENT: LaDana Hintz, Robert Costa, Jacob Feistner, Lita Fonda, Wally Congdon

Sue Lavery called the meeting to order at 4:02 pm. Selection of officers for 2016 was addressed.

Motion made by Steve Rosso, and seconded by Don Patterson nominating Sue Lavery as chair. Motion made by Steve Rosso, and seconded by Sue Lavery, nominating Frank Mutch as vice-chair. Both motions carried, all in favor.

Minutes were deferred as they were not yet available. Agenda order was revised so Monks would be the first item and Hertz would be the second item.

MONKS VARIANCE & CONDITIONAL USE—FINLEY POINT (4:03 pm)

Jacob Feistner introduced Jon Monks, the applicant, and Troy Gunlock, his agent. He presented the staff report. (See attachments to minutes in the January 2016 meeting file for staff report.) The Board had received a copy of a letter from the Commissioners to the applicant and Jacob touched on the three main points of the letter. (See attachments to minutes in the January 2016 meeting file for letter.) One touched on the historic use of the lane as a public access, which would continue. The second was that the lane was not maintained by Lake County at this time and maintenance would be the responsibility of the adjacent neighbors. If they had the desire to maintain the road, those things would need to be approved by the Commissioners. Thirdly, if the variance was approved, the Commissioners would require them to sign a waiver of protest regarding future improvements to the road or the lake access.

Steve asked if attachment 7 showed a previous residence. Jacob replied that it showed the approximate location of the proposed house. A boat house and a small trailer house previously on the property were gone. Jon Monks replied it was about 12 feet from the setback, at the location where they were requesting the new construction.

Frank asked where the two neighbors who wrote letters of comment were located. Jacob described where these were on the map, using attachment 4. Mary McCain was in the SW quadrant where the existing structure and 40 feet were marked. The McKees were under the legend and also owned the piece in the bottom right (SE) corner. You could just barely see the old trailer house. Sue checked that the hashed area along E Thurston Lane represented the right-of-way. Jacob confirmed that would be the width of the villa strip. North Finley Point Road and some other county roads had this width also. It could be improved to a road comparable to North Finley Point if there was a reason to do so.

Steve confirmed with Jacob that people could build a fence in the setback but they couldn't place temporary structures or small sheds. Sue asked if parking pads [could be placed in the setback] and LaDana said no. Steve asked if there were utility easements in the setback area. Jacob said there weren't in this particular case. Wally thought the overhead utilities might have an easement. Jacob described those as going through the center of the lot rather than along the side of the road. Mike McKee said utilities ran down East Thurston Lane on the south side. There had to be an easement. Jacob said he was thinking of just around the proposed structure. Frank thought [the utilities] didn't need an easement if they were in the county right-of-way.

Jon Monks spoke on behalf of his application. Their intent was not to disrupt but to enhance. They were trying to work with people. His builder met with Mike McKee after they saw his letter. They showed him the actual heights to ensure they didn't violate the potential view from his location. If it was a matter of twisting the garage to save 10 feet or dropping the height another 2 feet, they were willing even though they were within the zoning rule. They wanted to be good neighbors. For specific questions on building, Jon suggested speaking to Troy Gunlock. They were willing to waive the rights for future protest for improvements of Thurston Lane.

Troy Gunlock said they were willing to shift the garage to get the additional 10 feet to allow it to be 22 feet from the setback. Jon mentioned the building that was removed was already at 12 feet. They had assumed they could build to that line for their new home. They were willing to set [the structure farther] in to accommodate. They were planning to fence along the property line, as was the existing fence when they bought the property. It did make it very difficult to back a boat in and then turn around. He thought the real problem was there was no place to put the boat once they backed it in. They typically walked to the neighboring dock, tied up the boat, took the vehicle up the hill and then came back down to trespass back onto the docks to retrieve their boat. The road was single-lane with no parking except at the top of the hill and both neighbors had fenced that property line all the way down. The county road wasn't that functional.

Steve asked if Best Management Practices (BMPs) had been used for the work already done there. Troy said they had not. They thought they were far enough away. He was unaware of the restrictions and rules. Where they excavated was probably 100 feet or more away from the lake. Steve thought some work had been done in the 50-foot buffer zone. Jacob explained the slope disturbance and the building site of the house was probably between 60 and 110 feet from the lake at the closest point. Excavators had driven on the area between there and the lake and the boathouse was removed so a lot of that vegetation was disturbed or removed in the process. The actual slope disturbance was outside the lakeshore protection zone. Attachment #8 showed the building site although it was a little hard to tell in the black and white picture. The bottom of attachment 8B was taken from the shoreline looking at the building site. You could see the area in front of it had been disturbed by driving across it. The actual slope disturbance was set back beyond the 50-foot line.

Sue checked with Jon that the property was purchased last year. She asked if the zoning or permit requirements had been disclosed to him by his agent. Jon said it wasn't disclosed. Based on the existing buildings, he assumed it would be allowed or grandfathered. In discussion with the builder, he knew they applied for specific permits because he saw them taped on the trees. Jacob said this came to their attention when Troy applied for the variance for the setback. Jacob made a site visit and determined that more needed to be done. Steve checked that the applicants were now familiar with the importance of protecting the lake, environment and buffer strip.

Public comment opened:

Bob Williams spoke on behalf of Mary McKain, who could not attend the meeting. She had written a letter. She had concerns, most of which related to the road. She was upset because the disturbed area was clear cut. It was across the road from her main entrance. He thought the lane had 5 accesses from residences on the south side of East Thurston Lane, three of which were Mary's. She had concerns about wildlife. He understood from Jack Duffey that it was the applicant's intent to put in an orchard in the clear cut area. He gave more detail including reference to a map. Jon described where the orchard would go. Jacob pointed to attachment 3 and described the location. Bob asked if Jon was going to fence the property down to the lake on the north side of the lane. Jon said [he was going to fence it] where it was fenced when he purchased it. Bob said the south side was fenced all the way down now. Mary was concerned because of her multiple accesses, the popularity of the site and the absence of parking. People parked on Jon Monks' property previously to keep the road open. If that was fenced, she was concerned they would block accesses to properties. There was no place for people to get off the road because of the height of the vegetation. There was no turn-around at the bottom. You had to back a boat and trailer from Finley Point Road to the cement ramp, which was in bad shape. There was not a dock. He wasn't sure people were allowed to park on Finley Point Lane plus there was a bad blind corner when you tried to leave East Thurston Lane and turn south. They had safety concerns, wildlife concerns, a narrow road and concern that the access to homes would potentially be infringed upon by people with boats.

Bob was interested in talking with the applicants to see if they were open to improving the road to the 40-foot width, which would give people a place to pull off so people could get around a parked vehicle. Somebody had to pay for it. As long as Jon Monk had the equipment there to do his project, it wouldn't take much to take the vegetation away from the fence lines that would be constructed in the future and those that existed now to open the road up for possible two-lane traffic, and improve the blind corner. They weren't asking that Jon maintain it. Mary didn't want to deprive someone of using their property. He liked the proposal made to turn the garage because if the County wanted to improve or make a turn-around down there, they would be forced to buy property from Jon Monk to accomplish it. The closer he sat to East Thurston Lane, the less room the County would potentially have to purchase to make a turn-around. It was a lake access right now rather than a fishing access. The ramp down there was basically useless. It was difficult to launch anything. Those were Mary's concerns and proposals.

Mike McKee spoke. His letter was in the packet. He gave perspective as someone who lived in that immediate area year-round on property they'd owned for a long time. They were excited to see significant improvement since Jon Monk purchased the property. The 1970's single-wide trailer on concrete blocks with a propane tank was removed. He'd replaced one like it when he built his house. It was a significant improvement for the residence and the septic system. The proposed home looked beautiful and would be a nice addition. They supported the construction of a nice facility, improvement of the property and improvement of the tax base. They turned in a letter to the County with their thoughts. He called Jon Monk, who immediately responded. They discussed the concerns that were in the letter. Jon addressed their concerns in a very rational and positive manner. They knew he would have a big, tall house that would impede to a certain extent the McKee's ability to have 100% of the view they had before. Regardless of that, they supported the setback variance from the county road. A 50-foot setback on that particular strip of road of approximately ¼ mile in total length was useless.

Mike mentioned the boat ramp was probably put in 25 years ago through an arrangement with Fish & Game. He thought use as access for heavy equipment going onto barges in recent years as opposed to the historical use for 12- and 14-foot aluminum fishing boats had broken down the ramp. It was now listed as a County park but there was no park. It wasn't very useful. Bob Williams was suggesting that Jon Monk donate equipment to widen the road. He and his wife were opposed to that, and other neighbors would be as well. Regarding the height of the house and the lighting, Mike said they valued the darkness and looking at the sky at night. Jon had satisfied his concern about that. He added that Mary McKain's house was in an unfinished state and had been for 6 or 7 years. It was one of the neighborhood's eyesores. Regarding the clear cut, Mike saw them take out scrub brush and dead trees. Jon was going to put in some new trees. It would be a significant improvement. Mike and his wife supported the variance request from the 50 feet, as people directly impacted by the house. If something could be worked out that didn't significantly detract from the quality of the new home, they would support that.

Frank recalled the ramp and public access was a thorn in the side of the folks that lived there. He talked a bit more about that situation as did Bob. Frank returned to the Monks application.

Jon Monks checked which home was Mary's and asked if it had the variance for the 50-foot setback as well. Steve said she would need the same variance if she were building today.

Wally referred to a few of the mentioned items. He read the applicable language that was needed for the condition on question on lights. The issue of what you could extract from someone was significant. You could only ask them for what was reasonably related to what they were doing as part of a condition. It might seem odd to say you wanted the waiver of protest for the roadway, etcetera. The reason was if being closer to the road changed the viewshed, drainage, lights, snowdrifts or other things, you mitigated that by improving the road with a special improvement district, or changing it and regrading it.

The waiver was a reasonable thing to do and applied to all the people in the special district. It was impossible to say that this person got to contribute his equipment to broaden the whole road. You couldn't get close to doing that. The waiver of the right to protest the RSID for whatever was required affected the premises that way. The stormwater thing on the lake had been significant for years. They hadn't gotten waivers across the board for that but because of where this was and what it did in that location, the waiver from stormwater protection was not unreasonable as a condition of the variance either. He thought this applicant understood this. These three things helped get you where you needed to be and improved the neighborhood. If they had to do something later to mitigate the damage and the issues on the road, this particular neighbor said he intended to play. If they had to do something in order to deal with the drainage, he said he intended to play. That condition wasn't just in the variance. It went onto the record of the title for the property. It helped keep track of these things.

Public comment closed.

Steve thought the compromise suggested by staff to change the allowable variance from 12 feet to 22 feet was reasonable. The property owner and builder had agreed they thought that was reasonable. He suggested one change in conditions on pg. 24, #5 where he added the wording 'and have approved' in the first line after 'shall submit'. Jacob noted the zoning conformance permit wouldn't be issued until it was approved.

Sue asked for clarification on condition #9, which addressed lighting. Were the dark skies requirements in zoning more specific than what was in #9? Jacob said that would be included in the zoning conformance permit. LaDana added this was what the zoning said. Steve read the phrasing from the zoning. Jacob suggested adding a condition after #7 that said prior to issuance of a zoning conformance permit, the applicants will submit their revised site plan showing the new configuration.

Motion made by Steve Rosso, and seconded by Sue Lavery, to approve the variance and conditional use requests with conditions and terms as amended in discussion. Motion carried, all in favor.

HERTZ VARIANCES—SWAN SITES (5:07 pm)

Robert Costa noted that Rob Smith of A2Z Engineering was here on behalf of the applicants. Robert presented the staff report. (See attachments to minutes in the January 2016 meeting file for staff report.) Robert mentioned the new owners wanted to do a comprehensive fix to what was happening and listed items such as replacing the existing stairs, replacing degraded boat rails, landscaping work north of the structure and parking area improvement. They would have to do some lakeshore improvements with Rob to get ready to go.

Sue affirmed with Robert that they wanted to fix or upgrade the stairs in the second photo on pg. 2. Robert added they also wanted to fix the boat rails. Sue thought [what was in the setback] looked like the patio and just a corner of the actual house. She asked about the deck. Robert said they weren't proposing changes to the upper level decking. They

proposed fixing the flagstone patio. Steve checked the edge of the deck followed the edge of the step. Robert said that was what they proposed. Right now, the patio and the deck had different eave lines. The applicants proposed to improve the patio so it matched the eave lines above the deck. There would be no additional impervious surface coverage added.

Frank asked where 30 feet from the lake occurred. Robert replied it would be 5 feet from the patio so the patio was at 35 feet. The group talked about where various distances were represented on the map. Steve confirmed with Robert that the infiltration structures for the stormwater were outside the 30 feet. Robert indicated the area where those were proposed.

Rob Smith spoke about the project. He and the applicants were surprised when they received the survey and the corner of the house wasn't within the building setback. The new owners wanted to correct and make an investment in the landscaping around the house to bring it up to the level of quality of the house. It was a really nice house. He had two pictures to show. (See attachments to minutes in the January 2016 meeting file for the images.) One was a blow-up of a picture in the exhibits of concrete pavers set in the soil. Over time, they'd continue to settle and tip towards the lake. The owner wanted to improve that. He also showed an image from Google Earth with the home marked. From a thousand-foot perspective, the Hertz's home didn't look like it sat closer to the lake than the neighbor's. Technically they were into the 50-foot setback but it was hard to tell unless you had a survey.

Sue asked if the zoning specified lakeshore or high water mark. Robert reported it said 50 feet from the lake, which staff would interpret as high water. LaDana explained the reason for putting in the 2007 photo was that you could see they built where the old structure had been located.

Public comment opened: None offered. *Public comment closed.*

Steve suggested a change in the last sentence of condition #1 on pg. 18. He asked Rob if 35 feet was workable. Rob said he used a survey provided by a surveyor, using the 72 contour line, which most closely matched the high water mark. He couldn't say whether that contour line was exactly 35 feet from the corner of the house. He would prefer the word 'approximately'. LaDana agreed. That gave a little bit of wiggle room. On Swan Lake, they didn't have a set number. It was based on the last five years. Robert added the number they came up with relied on the survey. Steve eliminated 'no more than' in that sentence and added 'or more' after '35 feet' in the last line of condition #1.

Motion made by Sue Laverty, and seconded by Don Patterson, to approve both variances with staff report, conditions as amended, analysis and findings of fact. Motion carried, all in favor.

MENDENHALL VARIANCE & CONDITIONAL USE—EAST SHORE (5:25 pm)

Robert Costa explained the applicant, Holly Mendenhall, would be brought in by phone. This was done. He outlined the procedure. Holly's agent Jeff Larsen and her sister Brooke and company were present in person. Robert presented the staff report. (See attachments to minutes in the January 2016 meeting file for staff report.) They tried to balance the interest of the landowner with needs.

Sue clarified with Robert that the pink shown on attachment 13 was where the applicants proposed this [septic] and that staff were suggesting it would be further up on the lot. Fred said if the well stayed there, it was mandatory to move it. Sue checked if the guest house was under 1000 square feet. Robert said the guest house as proposed would comply with requirements. There would be conditions on the project's permit that would restrict it to as it was proposed. Sue clarified with the applicants that this was not a duplex. They described one kitchen and no wall down the middle of the living area.

Robert said they didn't contemplate that with two levels to the structure, the square footage of living area would be over 1000 square feet. This could be overcome. It required conditional use review. If needed, they could work on issuing one permit and work on the other pieces.

With regard to the fire department letter, Sue described the parking on the northeast. The entry to the structure was to the south. Robert didn't know if the fire department was aware of [details of] the proposal. He referred to attachment 7, the color drawing from the draftsman. What he understood was easier to see on the elevation drawings. He indicated where a concrete slab would be, which Holly wanted to fill behind. Steve said more detailed plans needed to be taken to the fire department so they understood the access to the roof on the east would be easy but the access to the building inside was around the corner and down a level. Robert said Holly's understanding of the project was not that there was going to be a proposed driveway on the east side. She anticipated having a parking area to the south. He didn't have a picture of that. As a result of the fire department comments Jeff got, it was changed to have that proposed parking area. They could go back to the fire dept. with more detailed drawings and work this stuff out for maybe a new comment letter. Brooke thought that made more sense. Everything was designed for the south. Holly agreed. Frank repeated from the staff report that the person who wrote the fire dept. letter was no longer there.

Wally gave a couple of points. If a water well was abandoned, two things happened. A lot of people didn't seal them up so you had a groundwater infiltration (GWI) issue. When a well was put in, you got a priority date when you put the water to beneficial use. The rule in Montana was 'first in time, first in line'. They closed a lot of basins to more wells now or more water. Part of what the owner probably would want to do would be to keep the priority date for the well for the water right. If you moved it too far, it wasn't the same aquifer or water or deal. Because you had the teacup of the lake, which was clay, the farther up the hill you moved the drainfield, the better you did. You'd probably have a waiver of an RSID for water and sewer to treat graywater in a central plant and get rid of it. At this site there was a standing groundwater issue. Why would they put the

drainfield down the hill where groundwater issues existed? They could move it up the hill and be done with it. If they were going to drill a new well, they could drill it right by the old well. They would keep their priority date from the DNRC. The gray water would be gone and there'd be a waiver for later so they wouldn't have to worry about a replacement drainfield. The sewer system would potentially take the graywater and treated water. That solved a myriad of issues.

They might be building on steeper ground but if the purpose of the zoning originally was to move pollution from the lake for better water quality, if you got rid of more water from the site by getting it up the hill and gone, the little bit of work on the steeper hill probably wasn't going to hurt because of the net benefit to everybody, including the owner. You prevented harm, preserved issues with groundwater and water right for the well and also get the benefit of promoting the eventual public good of some sort of graywater treatment system along that side of the lake. It wasn't a deal. It was a function of how you accommodated what they needed to use the site appropriately and at the same time achieved where [the County] was trying to go with the ordinances in the first place. With zoning, that was health, safety, welfare, and environmental quality, etcetera. This seemed the best way to get everybody there. That was the rationale behind this.

Steve asked if the property was on the reservation and Robert said it was off. Steve said the issues were not the same as if you were trying to drill a well on the reservation. Wally said the safe bet was to hang on to your existing right and do it better. Frank asked why the well was going to be abandoned and if it was an issue [the Board] needed to deal with. Brooke said the well was fine. Robert said they didn't necessarily need to deal with this. Sue said it was just a question. Wally added if they kept the well, they saved the cost of drilling and they got the graywater from the sewage away from the well, high water line and lake. They wouldn't have to move the well. They'd have to lift graywater only. They'd keep their septic tank.

Jeff Larsen of Larsen Engineering and Surveying spoke about the project. He gave out two handouts. (See attachments to minutes in the January 2016 meeting file for handouts.) One was on groundwater levels and the other was about the water right for that well. He commended Robert for the thorough staff report. The concern of the applicants came down to relocating the drainfield and well. They dug a test hole and estimated the groundwater level at 4 feet. They monitored in 2014 and the groundwater peaked at a level of 83 inches below the ground surface. That was close to 7 feet. You needed to have a 4-foot groundwater separation. If you designed an elevated sand mound, which they designed for this project, the system would work well with a 4-foot groundwater separation. They had 7 feet of groundwater separation. Elevated sand mounds were some of the best systems you could put in. They had it on the flattest slope on the property. That was one of the reasons he wanted it there. There was less potential for effluent surfacing if it was on a flat area so they proposed relocating the well. He checked with Marc Pittman, the regional engineer at DNRC and Roger Noble, at Applied Water Consulting, who did a lot of water rights work for the City of Polson. They told him relocating the well would not jeopardize the water right priority date. He would have to abandon the well and file for a relocation. He pointed to the email from Marc Pittman

that was one of the handouts. Frank said if he were doing it, he'd have them clarify the date in writing.

Jeff talked about relocating the drainfield. He showed a map on which he'd marked. On pg. 3 of the staff report, he read from the purpose of the regulations. They had to balance that. By moving the drainfield way up to the top of the property, there could be potential problems. He talked about those, referring to the map. The slope of the first area was under 25%. If you designed a septic system over 15%, an engineer had to do a steep slope report showing you wouldn't have an issue for 15% to 25% slope. The slope on the middle one was 22%, on another was 21% and the top one was at about 15%. If you looked at the distances, it was 409 linear feet from the guest house to the start of the first one, 725 feet to another and 805 feet to the third. He wanted them to be aware of the distances and slopes.

Jeff touched on potential impacts of moving the septic system up there. The best place to move it up there would be at the 805 feet but they didn't know there wasn't a groundwater problem there because they were up by the highway. Potential leakage of the force main was an issue. The more length of pipe and force mains put in, the more potential you had for leaks. He liked to keep the drainfields close to his development. To go farther away, you needed bigger pumps. On this one especially, you couldn't dose that from where you were at. You'd need two pumps and a lift up to it. You'd have to dose it on top, which would force you to take electrical up there too and have the alarm system. It wasn't just the pipe that disturbed the ground but also moving the electrical. They would be digging a trench up where most of the ground was over 25% or close to it. He estimated the ground disturbance to do that would be 25 feet wide and 400 to 800 feet in length. The vegetation would be stripped and there would be a straight slope to the lake. That would be a conduit for stormwater to run towards the lake over a large disturbance area. He had concerns with that.

Jeff repeated his concern that with more pumps in a system, the chances of failure went up. Another issue he foresaw was weeds. Those inherently grew in disturbed areas. There was also erosion potential along the path of the trench. The system they designed was an elevated sand mound with level 2 treatment. They weren't required to do the level 2 treatment but were doing it. It was an advanced treatment system that purified the effluent to where it was basically clear. He thought this was really good for the lake and a benefit. They also got the extra separation of an elevated sand mound from the ground water. If they moved it, it caused more chance for problems to the natural environment, water quality and wildlife habitat. He asked that the Board at least consider there was a tradeoff between just moving it up the hill and the potential problems with that.

Jeff wanted to clarify statements on pg. 14 number 6 and pg. 22 C in the staff report. Both said there were level areas at the site. They really weren't level. They were 22%, 21% and the top one was 15%. Those types of areas had challenges. With a steep slope report, he had to show the stability of the slope with regards to failure and the percent and factor safety against effluent surfacing. That wouldn't be necessary where they had it now.

Sue asked if the one was less than 15%. Jeff said that was a nice flat area. You couldn't put an elevated mound on a slope over 12%. He thought that was less than 12%. He hadn't stippled on that area because he wasn't planning on building there. He summarized that there were trade-offs if they moved the drainfield.

Steve asked if with a sand mound system, a lot of the treatment was through evaporation rather than soaking into the ground. Jeff agreed. Steve said the amount of liquid the septic field would add to groundwater was less with the sand mound system than a conventional system. Jeff agreed. You had the bottom of the bed of the sand mound a foot above the natural ground. Your trenches were down below the ground. Steve said the risk of this design adding to the slope's instability would be less than with a conventional system. Jeff said that was his opinion as an engineer. He added they weren't directly above the building site with the elevated mound. They were offset. Hydrogeology typically worked where it flowed in the direction of the contours. He wasn't worried about the stability on the existing slope of the ground. You started to get worried, and where DEQ required the engineered reports, on slopes above 15%. They wanted you to calculate the chances of a slough and the chances of effluent surfacing. The chances were higher on a steep slope because if you put your trenches in, you were closer to the daylight point of it than if it was flat. He pointed to two slopes in the middle. They couldn't put an elevated mound on those. It was too steep.

Returning to the well, Jeff mentioned there were strict criteria for how you had to do it. You couldn't just say you abandoned it. You had to file a well log and hire a well driller. The driller put bentonite in there and sealed off the inside of the well. It was done in a professional way and the well driller filed a new log with that. If you didn't abandon it properly, you couldn't get a replacement well.

Steve checked that the property owner would take responsibility for the possibility of losing the water right date in extenuating circumstances. It would not come back to the County. Jeff said this was correct. Both the people he spoke with told him verbally you wouldn't lose the date by relocating the well. Steve read the first paragraph of the email from Marc Pittman, which sounded to him like it would be a new date. The applicants would have to figure that out and take responsibility for that. Jeff thought the last sentence clarified it. Steve clarified the question wasn't if they would lose the water right but whether the date changed. Frank thought either alternative was up to the owner and the sanitation review people.

Wally said the issue with the well wasn't how you sealed the inside. Virtually every case he saw in groundwater screw-up was not on the inside of the well casing but on the outside. A lot were tin. Some were wood or other materials. It was fine to fill the inside with bentonite. If you had a leak on the outside, you had an issue. The only way it didn't jeopardize your water right was if you got water at the same elevation, depth, flow rate and aquifer. His issue or question was as a county, did you want to put a drainfield on top of a well that was there. Also if you could get the graywater farther away from the lake for the long term, that was the best solution. He wouldn't say to dig it in. He'd

plow it in with a D-6 and put it along the side of the road with 1 ½ inch pipe. The two that he had running since 1967 were 407 feet from the source. They'd replaced one pump in 40 years and never had a leak. It was doable. The applicant was trying to get a variance on the issue of the steepness of slope, etcetera. They were getting something they needed out of the equation to say how they prevented greater risk of harm to get there. He thought Steve was right about the sand mound adding less water. It still had the well, was closer to the lake, was some water in the ground and was still a bigger risk. The variance really was about the question of could they do a steeper slope and be here. If they wanted to do a steeper slope, why increase the risk? Why not just move the problem away and be done with it?

Robert noted that Holly hadn't had the opportunity to speak yet. He appreciated Jeff's approachable attitude. Some additional things to consider included practicality questions, such as what the cost to replace a well would be. Another was the practicality of placing the well as it was proposed, to the west underneath their roadway. Where would the well digger park in order to be able to do that? Would the well digger truck be secure? How would that work be done without blocking off access to the southern adjacent property? LaDana added the question of whether the well was on a steep slope. They couldn't really tell. Robert said it looked like it was in an area of about 35% slope. The well was about 60 feet away from the lake. They'd want to know the installation work wouldn't affect the lake and how it would be properly buffered. Well drilling brought a lot of gunk out of the ground and that could run straight into the lake. He wasn't sure what the impacts of that would be and how they'd be able to mitigate that. It was another concern. Regarding the property to the south, he asked if [the applicants] were able to identify wells on that property. Brooke answered no, it was lake water. Robert said that property had a sanitary restriction on it. Brooke updated that she spoke with Diana of Lake County Environmental Health. The sanitary restriction was put on in error and it was removed immediately.

Steve checked that the driveway provided access for someone on the other property at the end. Brooke said it was a vacant property with no one living there.

Steve touched on the retaining wall at the back of the home. His experience was they didn't want to compact the soil behind the retaining wall. They wanted to be able to drain liquid. Having a parking area on the uphill side of the retaining wall might not be the best thing to do. Jeff replied you wanted to compact it or it would settle around your house and that would cause runoff problems too. If you put drain rock there in a French drain pipe, you'd be alright. Steve thought parking on the opposite side from where the home was built and on a retaining wall wasn't the best thing. Jeff said he originally had the driveway on the south side of the house. He got the comment from the fire dept. so he moved it due to the concern of meeting their requirements. It might be worth talking to them to see if they might agree to the south side. Steve thought if Jeff had a chance to have the fire dept. remove that requirement, they might want to abandon that parking area against that retaining wall. Jeff thought that was a good comment.

Holly Mendenhall said she felt confident in Jeff. He'd been very thorough and positive. He was thorough in considering the environment and impact on the lake. They wanted to be as close to the lake as they could be. It seemed like a doable project. They would be very careful in how they managed these issues. She thought there were a lot of professionals who'd drilled wells on the lake and in other areas for a long time. They could find the right people to do it correctly, taking the issues into consideration.

Jeff commented if they were to approve the variance and say the drainfield had to be moved, they might not be able to move it. They didn't know where the groundwater levels were on those other spots. They might find groundwater at 3 feet of depth. They don't know that. Robert said it wasn't that they couldn't come and examine it again later. The fact that they didn't know whether the other areas were suitable made it that much more of a reason to look into this. If they got an approval one way and it couldn't work, they could come back and ask for modifications.

Robert mentioned the lot in the corner. Regardless of whether it had a sanitary restriction, it might at some point in time also need a well. They would have the same 100-foot setback. The [proposed] well location [zone] extended into that lot a good portion. If that lot put in a well, the 100-foot isolation area left them no place for a drainfield. The southern property owner would be bearing a pretty big portion of the well isolation zone for this property. Brooke said they already put in a 4-bedroom septic. Robert asked about replacement. Brooke said they had a replacement field above where they dug in. Robert asked about a well. Brooke said the only place on their plat for a well to go was on the southern end. The property adjacent to that was 10 acres. Robert said that no one had provided these details to them when they asked questions. Brooke asked Holly if she could email the letter from Diana about sanitation. Robert said they would also need to consider additional comments in relation to the well if they decided to not go with the modification that staff proposed. They'd want to put in something protecting the vegetative buffer and the lake from impacts related to the well drilling.

Sue asked about the situation to the north of this property. Robert replied that property had been developed with a residence closer to the lake. Sue asked if there was a stream or creek that came down that way. She clarified that she was talking about that area rather than the [specific] property. Brooke said there was a stream two properties to the north of the north neighbor. She described it. Sue asked where the north neighbor's well and septic were in relationship to where [the applicants] were asking for theirs. Jeff didn't know. Brook said the neighbor cleared out about 1 ½ acres he developed prior to the zoning district.

LaDana commented that in this case, this was in the Board's purview. They had a very limited amount of area to work with on this lot to fit within the confines of the zoning. They had to look at the big picture not a little piece. Some tied in to what was happening on the neighboring properties. In this case, they were trying to protect the lake at the same time and so everybody in that area could use and enjoy their properties.

Frank thought they were trying to do engineering of this issue. If they stated concerns, the engineer of the owners could resolve it. Costs were a huge factor. You could do what you wanted correctly and with a minimal impact as long as you spent enough money. Certainly they could get a drainfield up the hill and minimize impacts by not having to dig a deep trench, etcetera. They could go along the roadway and zigzag it, which would add to the length. He was looking at rewording condition #4.

LaDana observed that the Board had about a half hour until the Planning Board meeting.

Sue thought more information was needed. Were these other locations viable? The guest house was two-story and might be over 1000 square feet. More information was needed on that and they might need to rework it or ask for another conditional use. Could this be tabled for more information? LaDana said it seemed like it could be coming back again for the guest house approval. If the Board felt they didn't have enough information to approve it, it might be good to collect more information. Brooke suggested giving the applicants a detailed list of what was needed if they decided to do that. Getting an exact list of what was needed had been a little frustrating for the applicants. Wally suggested if that were the case, table the whole thing and realize that what would come back at the next meeting would include the guest house question. They could do the whole package at one time.

Wally had a query for the engineer. He understood what Jeff was saying about the question of dosing a system. If they were going to lift it up the hill, to him, he was one who would never have dosed in Lake County in the first place because you didn't need to do the carbon footprint of pumping the water to dose. He understood the benefit of tertiary treatment but the flip side was that if they didn't need to dose it with pressure at the top of the hill, if you did lift it, why not just have a variance on the dosing requirement, make it a standard drainfield and let gravity do its work. They might want to look at that question that way, too.

Jeff responded he wasn't in favor of gravity systems for something like that. He thought the pressure-dosed were better and lasted longer. It caused less of an impact with the nitrates. What happened on a gravity system was it just flowed and used a little area. When that area plugged up, it used a little more area. It was concentrated in one area. He knew a lot of people were mad that they were dosing systems. Flathead County required every system to be pressure-dosed and they were the best systems. You could syphon them too. Wally said these were just ideas. He would do a motion to do it that way. It got everybody where they needed to be later.

Steve asked if Jeff had worked on systems that required establishing a cut and fill area to set up the sand mound so it could be on a level spot. Jeff said the only way to do that under the regulations was for a replacement system. They wouldn't let you cut and fill for a new system. You could do minor leveling. Steve confirmed with Jeff that the 22% area would require some other kind of system. Jeff said he'd found on a lot of the hills, if you had groundwater issues in one spot, you also tended to have them in another spot. Steve confirmed with Jeff that the groundwater tests had been in the spring in the location

where the applicants proposed the system. Picking a new location and determining the groundwater would mean they wouldn't know if a location was good until May. Jeff thought that was true. The County would probably want to see some monitoring up there because they knew there was groundwater in that area.

Steve pointed to condition #9 regarding soil tests to be done at the building site. Jeff said he wasn't really opposed to that. Typically on structures, he wasn't a geotech engineer; he was a general civil engineer. If it was a building soil test, he'd get a geotech engineer involved to make some recommendations on things such as the foundation design. It was probably a pretty good idea when you were on a slope like that.

Frank listed items that they'd talked about. One was to reevaluate the water and sewerage systems in line with the discussion. Another was to verify the date of the water rights if they were to change the well. With the assistance of the Planning staff, the applicants would determine what was going on with the adjacent properties to see if there were restrictions or issues that might affect what they were doing. The guest house issue needed to be dealt with and a conditional use submitted.

Jeff asked specifically what they wanted evaluated on the sewer and water systems. Frank said they needed to look at the whole issue. The alternatives were moving the drainfield and keeping the well or putting in a new well and putting in the raised bed. Sue added the fire department issue. Steve said the main issue for him was whether to move the septic field. If the applicants wanted to take responsibility for losing the water right date by drilling a well, as long as they did the Best Management Practices (BMP) to prevent sediment from damaging the environment, then he wasn't going to suggest that they couldn't.

LaDana commented she wanted to make sure a well could be drilled in that location, not just putting it on a plan. She wanted to make sure they could have a well when they got to that point. Steve thought you'd want to know the information from the neighbors on wells and septic fields to pick a good location. Brooke said they didn't look at that because they were more than 100 feet from that line. Steve agreed that was true with the current design. If they were going to move the septic field, that would be one of the parameters they would need to check. They would need to make sure the neighbors didn't have a well in a spot near where they might put a septic field.

Jeff asked if they wanted a cost estimate of the two alternatives. Frank thought that was up to Jeff and the owner. With the conditions that were listed, they would have to move the well and septic if it was approved today. They didn't want to move those. This gave the time to evaluate the impacts of one versus the other, including economics and engineering feasibility. Jeff thought he spelled out his engineering concerns. If they wanted cost estimates, he could try to do that. Frank replied that wasn't up to [the Board]. That was between Jeff and the owner.

Steve suggested they look at if there was a problem moving the septic and as a result, if a new well had to be drilled. If the well was off the side of the driveway uphill from the

septic, it would solve some problems with the well drilling and potentially running down into the lake. If they moved the well instead of the septic field, maybe that would solve some problems. Jeff and Brooke thought that was a good idea. Brooke said they would have to run power but that wouldn't be that bad. Frank mentioned if the well was downhill, you never knew about infiltration from the septic system. Jeff said [moving it uphill] also got it farther from the lake. Brooke said it would be much easier to drill. Jeff said they would probably come back with something like that.

Steve thought the reasons why the applicants wanted to stay with this location should include things like if they talked to Diana and looked at the options of picking a new location that required new groundwater testing and monitoring that would push a decision off until summer. Robert said they'd been trying to have the same conversations with Environmental Health. If Planning staff could be included in whatever conversation the applicants had with Environmental Health, the Planning staff were asking for this. Sue said any information that the applicants might have such as emails would need to go to staff so it was all in the same open book.

Robert said he'd work with Holly on what they needed to get the conditional use going.

Motion made by Frank Mutch, and seconded by Sue Lavery, to table this item to the next meeting. Motion carried, all in favor.

OTHER BUSINESS (6:42 pm)

LaDana mentioned the boards had open positions.

Sue Lavery, chair, adjourned the meeting at 6:44 pm.